

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK  
-----X  
UNITED STATES OF AMERICA

-against-

MEMORANDUM AND ORDER  
04-CR-0012-01 (DRH)

WILSON LOPEZ-BAUTISTA,

Defendant.

-----X  
A P P E A R A N C E S:

For the Government:

Benton J. Campbell  
United States Attorney  
610 Federal Plaza  
Central Islip, New York 11722-4454  
By: Raymond A. Tierney, A.U.S.A.

For Defendant:

Keahon, Fleischer, Duncan & Ferrante  
1393 Veterans Memorial Highway  
Suite 312N  
Hauppauge, New York 11788  
By: Joseph J. Ferrante, Esq.

HURLEY, Senior District Judge

Pending before the Court is an application by defendant Wilson Lopez-Bautista ("defendant" or "Lopez-Bautista") for an order pursuant to 18 U.S.C. § 3583(e)(1) for early termination of his supervised release. The application is opposed by the Probation Department. Defendant was sentenced by me on December 10, 2004, following a conviction for Conspiracy to Bring Aliens into the United States, a Class C felony. He was sentenced to, inter alia, eighteen months incarceration followed by three years of supervised release.

## DISCUSSION

Section 3583(e) provides in pertinent part:

The court may, after considering the factors set forth in section 3553(a)(1), (a)(2)(B), (a)(2)(c), (a)(2)(D), (a)(4), (a)(5), (a)(6), and (a)(7)–

(1) terminate a term of supervised release and discharge the defendant released at any time after the expiration of one year of supervised release, pursuant to the provisions of the Federal Rules of Criminal Procedure relating to the modification of probation, if it is satisfied that such action is warranted by the conduct of the defendant released and the interest of justice.

18 U.S.C. § 3583(e)(1).

The Court has reviewed the portions of § 3553(a) referenced in § 3583(e) in conjunction with the application submitted by the defendant. See generally United States v. Lussier, 104 F.3d 32, 34–35 (2d Cir. 1997). Having done so, I decline to grant the relief requested. Although I am sensitive to the fact that defendant's wife and children are currently living in Ecuador, that change in circumstances is the result of a voluntary family decision as explained in the Introduction portion of Joseph J. Ferrnante, Esq.'s Affirmation in Support. Neither it, nor the additional information set forth in the application, viewed singularly or cumulatively, satisfies the Court that granting the requested relief would be in the interests of justice.

In sum, the current application for early termination of supervised release is denied.

SO ORDERED.

Date: October 30, 2008  
Central Islip, New York

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DENIS R. HURLEY, U.S.D.J.